

**WEST VIRGINIA LEGISLATURE**

**2019 FIRST EXTRAORDINARY SESSION**

**Committee Substitute**

**for**

**House Bill 174**

BY DELEGATES HANSHAW (MR. SPEAKER) AND MILEY

[BY REQUEST OF THE EXECUTIVE]

[Originating in the House Select Committee on  
Education Reform B]



1 A BILL to repeal §18-5B-1, §18-5B-2, §18-5B-3, §18-5B-4, §18-5B-5, §18-5B-6, §18-5B-7,  
2 §18-5B-8, §18-5B-9, §18-5B-10, §18-5B-11, §18-5B-12, §18-5B-13, §18-5B-14,  
3 §18-5E-1, §18-5E-2, §18-5E-3, §18-5E-4, §18-5E-5, §18-5E-6, and §18-5E-7 of  
4 the Code of West Virginia, 1931, as amended; and to amend said code by adding  
5 thereto a new article, designated §18-5G-1, §18-5G-2, §18-5G-3, §18-5G-4, §18-  
6 5G-5, §18-5G-6, §18-5G-7, and §18-5G-8, all relating to school innovation;  
7 declaring purpose of Innovation Schools; defining terms; setting forth  
8 responsibilities for Innovation Schools; allowing Innovation Schools to solicit and  
9 accept gifts to use in support of Innovation School; requiring state board to  
10 promulgate rule setting forth application process to receive Innovation School;  
11 requiring an Innovation School plan; setting forth required contents of Innovation  
12 School plan; setting forth evaluation process for Innovation Schools; specifying  
13 action that may be taken following Innovation School evaluation; creating the  
14 Innovation School Fund; providing an avenue for flexibility for high performing  
15 schools; and clarifying article does not affect prior Innovation Zone or Innovation  
16 in Education designations.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 5B. SCHOOL INNOVATION ZONES ACT.**

**§18-5B-1. Title.**

1 [Repealed.]

**§18-5B-2. Legislative findings and purpose.**

1 [Repealed.]

**§18-5B-3. School innovation zones; application for designation; state board rule.**

1 [Repealed.]

**§18-5B-4. Innovation zones; required plans; plan approval; state board rule.**

1 [Repealed.]

**§18-5B-5. Approval of innovation zone plans; waiver of statutes, policies, rules or interpretations.**

1 [Repealed.]

**§18-5B-6. Employee approval of innovation plan application and plan; transfer of employees.**

1 [Repealed.]

**§18-5B-7. Progress reviews and annual reports.**

1 [Repealed.]

**§18-5B-8. Teacher vacancies in an innovation zone; job postings exceeding certain qualifications and requirements; approval of postings.**

1 [Repealed.]

**§18-5B-9. Establishment of new innovation zone schools by state institutions of higher education.**

1 [Repealed.]

**§18-5B-10. Exceptions to statutes granted to innovation zones; limitations.**

1 [Repealed.]

**§18-5B-11. Local Solution Dropout Prevention and Recovery Innovation Zone Act.**

1 [Repealed.]

**§18-5B-12. School system collaborative innovation zone; requirements to qualify; application for designation; required plans for innovation zones; plan approval; waiver of statutes, policies, rules or interpretations; progress reviews and annual reports; teacher vacancies, job postings and approval.**

1 [Repealed.]

**§18-5B-13. Innovation school district Act; legislative findings, intent and purpose; eligibility; application; innovation plan and plan approval; designation; waiver of statutes, policies, rules or interpretations; exceptions; progress reviews and annual reports; state board rule.**

1 [Repealed.]

**§18-5B-14. Termination of funding for School Innovation Zones and Local Solution Dropout Prevention and Recovery Innovation Zones.**

1 [Repealed.]

## **ARTICLE 5E. INNOVATION IN EDUCATION ACT.**

**§18-5E-1. Purpose.**

1 [Repealed.]

**§18-5E-2. Innovation in Education school defined.**

1 [Repealed.]

**§18-5E-3. Application for Innovation in Education school designation; application review and approval; state board rule.**

1 [Repealed.]

**§18-5E-4. Innovation in Education Plan; required contents; measurable annual performance goals; uses.**

1 [Repealed.]

**§18-5E-5. Operational agreement between Innovation in Education school and county board.**

1 [Repealed.]

**§18-5E-6. Evaluation of Innovation in Education designated schools.**

1 [Repealed.]

**§18-5E-7. Innovation in education fund.**

1 [Repealed.]

## **ARTICLE 5G. INNOVATION SCHOOLS.**

### **§18-5G-1. Purpose.**

The purpose of this article is to improve student outcomes by:

(1) Encouraging and incentivizing schools to be innovative in efforts to improve student outcomes;

(2) Providing principals and teachers greater flexibility and control to meet the needs of their students;

(3) Enhancing student engagement so students have a vested interest in improving outcomes;

(4) Providing a testing ground for innovative educational reform programs and initiatives and the school level; and

(5) Documenting strategies used by schools that improve student outcomes for replication.

### **§18-5G-2. Innovation School defined.**

(a) An Innovation School is a public school in this state that applies to and is designated by the state board in accordance with this article as an Innovation School with a principal focus of improving student outcomes through innovative strategies.

(b) An Innovation School:

(1) Shall provide a program of public education that includes one or more of the grade levels prekindergarten to grade 12, including any associated post-secondary dual credit, advanced placement and industry or workforce credential programs;

(2) Shall design its educational program to meet or exceed the student performance standards required under §18-2E-5 of this code and is subject to all student assessment, accreditation and federal accountability requirements applicable to other public schools in this state. However, nothing shall prohibit an Innovation School from establishing additional student assessment measures or implementing competency-based course completion strategies that go beyond state requirements;

14       (3) Shall operate according to an Innovation School plan developed by the school's  
15 principal and faculty with input from its local school improvement council, the county board, the  
16 county superintendent and, if the school is a high school, the students of the school;

17       (4) Shall, if designated by the state board as an Innovation School, host visits and tours  
18 of its facility and programs to provide information and an opportunity to observe any successful  
19 innovations which may be replicated in other schools. The school may require the payment of a  
20 fee to off-set the cost of hosting such visits and tours; and

21       (5) May solicit and accept gifts, donations or grants for school purposes from public or  
22 private sources in any manner that is available to a local school district and expend or use such  
23 gifts, donations or grants in accordance with the conditions prescribed by the donor except that a  
24 gift, donation or grant may not be accepted if subject to a condition that is contrary to any provision  
25 of law or term of the Innovation School plan. Any monies received by an Innovation School from  
26 any source remaining in the school's accounts at the end of a fiscal year shall remain in its  
27 accounts for use during subsequent fiscal years.

**§18-5G-3. Application for Innovation School; application review and approval; state board**  
**rule.**

1       (a) The state board shall promulgate a rule in accordance with §29A-3B-1 et seq. to  
2 implement the provisions of this article. The rule shall include provisions for at least the following:

3       (1) A process for a school or group of schools to apply to be an Innovation School that  
4 encompasses at least the following:

5       (A) The manner, time, and process for the submission of an Innovation School application;

6       (B) The contents of the application, which shall include at a minimum:

7       (i) A clear articulation of the areas of autonomy and flexibility in curriculum, budget, school  
8 schedule and calendar, professional development, and staffing policies and procedures which  
9 would require a waiver of policy or statute; and

10       (ii) The Innovation School plan;

(C) Factors to be considered by the state board of education when evaluating an Innovation School application, which shall include, but are not limited to, the following factors:

(i) The level of staff commitment to apply to be an Innovation School; and  
(ii) Support from parents, students, the local school improvement council, and business partners for the Innovation School plan.

(2) The process by which the state board will periodically review the performance and student success of Innovation Schools, reaffirm or reconsider the designation of a school, and identify exemplary schools to serve as demonstration sites.

(b) The state board shall approve each applicant that meets the application requirements and announce all successful applicants receiving the designation of an Innovation School in a meeting open to the public and clearly state in a resolution the reasons for the decisions. A copy of the resolution shall be submitted to Legislative Oversight Commission on Education Accountability.

**§18-5G-4. Innovation School plan; required contents; measurable annual performance goals.**

(a) The state board shall promulgate a rule in accordance with §29A-3B-1 et seq. setting forth the required contents of an Innovation School plan, which at a minimum shall include:

(1) A description of how the school will address the overall climate and culture of the school as a high performing learning environment in which every child may succeed to the best of his or her ability;

(2) Measurable annual performance goals to assess the school's performance and student success across multiple measures that will serve as the basis evaluating the Innovation School;

(3) A budget plan that includes a detailed description of any funds requested and how any funds granted specifically to support the Innovation School;



(4) A detailed description of the unique operational policies and procedures to be used by the school seeking designation and how the procedures will support school performance and student achievement; and

(5) Any exemptions to rule, policy or statute the school is seeking: *Provided*, That a school may not request an exemption nor may an exemption be granted from:

(A) Participation in the West Virginia Balanced Scorecard;

(B) Any provision of law or policy required by the Every Student Succeeds Act of 2015 or other federal law; or

(C) §18A-4-2, §18A-4-7a, §18A-4-7b, §18A-4-8, §18A-4-8a and §18A-4-8b of this code.

(b) The county board of education must approve an Innovation School plan prior to its submission to the State Board of Education for approval.

(c) No later than June 30 of each year the state board shall submit an annual report to the Legislative Oversight Committee on Education Accountability containing the Innovation School plans that have been approved for the following school year.

**§18-5G-5. Evaluation of Innovation Schools.**

(a) During its third full year of operation the county superintendent shall issue a performance report on the Innovation School. The performance report shall summarize the school's performance record to date based on the data collected under school's Innovation School plan and shall provide notice of any weaknesses or concerns perceived by the superintendent concerning the school that may jeopardize its designation if not timely rectified. The school and the superintendent shall mutually agree to a reasonable time period for the school to respond to the performance report and submit any corrections to the report.

(b) After its fifth full year of operation, and periodically thereafter as may be provided by the state board, the Innovation School shall be evaluated by the county superintendent. The county superintendent shall submit the evaluation to the county board and the state board. The

evaluation shall determine whether the school has met the annual goals outlined in its Innovation School plan.

(c) The county superintendent may recommend to the county board and state board in the evaluation:

(1) To amend or suspend one or more components of the Innovation School plan if the county superintendent determines an amendment or suspension is necessary to improve the performance and student success of the school;

(2) To amend or suspend one or more components of the Innovation School plan if the county superintendent determines an amendment or suspension is necessary because of subsequent changes in the district that affect one or more components of such Innovation School plan;

(3) To support continued operation of the Innovation School in accordance with its Innovation School plan; or

(4) To recommend to the state board that the school be designated as an Innovation School demonstration school based on its exemplary performance and student success.

(d) Based on the county superintendent's evaluation and a data analysis conducted by the West Virginia Department of Education the state board may:

(1) Amend or recommend an amendment to one or more components of the school's Innovation School plan;

(2) Suspend one or more components of the school's Innovation School plan;

(3) Affirm continuation of the Innovation School under its current Innovation School plan;

or

(4) If it is determined that the school has substantially failed to meet the goals outlined in its Innovation School plan, terminate the Innovation School designation of the school.

(e) An amendment, suspension or termination may not take place before the completion of the school year.

37        (f) The state board may take immediate action with respect to an Innovation School plan  
38 if the Innovation School's performance on the West Virginia Balanced Scorecard significantly  
39 decreases.

**§18-5G-6. Innovation School fund.**

1        There is hereby created in the State Treasury a special revenue fund to be known as the  
2 "Innovation School Fund." The fund shall consist of all moneys received from whatever source to  
3 further the purpose of this article. The fund shall be administered by the state board solely for the  
4 purposes of this article, including providing grants and other financial assistance to Innovation  
5 Schools designated schools to implement and carry out such Innovation School plans. Any  
6 moneys remaining in the fund at the close of a fiscal year shall be carried forward for use in the  
7 next fiscal year. Fund balances shall be invested with the state's consolidated investment fund  
8 and any and all interest earnings on these investments shall be used solely for the purposes that  
9 moneys deposited in the fund may be used pursuant to this article.

**§18-5G-7. Flexibility for high performing schools.**

1        (a) Any school that exceeds standards on all West Virginia Balanced Scorecard indicators  
2 may apply to the state board to be exempted from any rule, policy or statute the school believes  
3 is a barrier to increased student outcomes: *Provided*, That a school may not request an exemption  
4 nor may an exemption be granted from:

5        (A) Participation in the West Virginia Balanced Scorecard;

6        (B) Any provision of law or policy required by the Every Student Succeeds Act of 2015 or  
7 other federal law; or

8        (C) §18A-4-2, §18A-4-7a, §18A-4-7b, §18A-4-8, §18A-4-8a, and §18A-4-8b of this code.

9        (b) The state board shall promulgate a rule in accordance with §29A-3B-1 *et seq.* to set  
10 forth the application process, including the required contents of the application, for schools that  
11 exceed standards on all West Virginia Balanced Scorecard indicators to apply for exemptions to  
12 rule, policy, or statute. At a minimum, the application must include the level of staff commitment

13 for the requested exemption(s) and support from parents, students, the local school improvement  
14 council and business partners for the requested exemption(s).

15 (c) The state board shall announce all successful applicants under this section in a  
16 meeting open to the public and clearly state in a resolution the reasons for the decisions. A copy  
17 of the resolution shall be submitted to Legislative Oversight Commission on Education  
18 Accountability.

**§18-5G-8. Applicability.**

1 Nothing in this article shall be construed to alter or supersede an Innovation Zone  
2 designation or Innovation in Education designation conferred by the state board prior to the  
3 enactment of this article. Schools that have received such designations shall continue to operate  
4 under the terms by which the designation was granted.

NOTE: The purpose of this bill is to increase and promote school innovation and flexibility; define Innovation School; set forth responsibilities for Innovation Schools; allow Innovation Schools to solicit and accept gifts to use in support of Innovation School; require state board to promulgate rule setting forth application process to receive Innovation School; require an Innovation School plan; set forth required contents of Innovation School plan; set forth evaluation process for Innovation Schools; specify action that may be taken following Innovation School evaluation; create the Innovation School Fund; provide an avenue for flexibility for high performing schools; and clarify that this article does not affect prior Innovation Zone or Innovation in Education designations.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.